Annex to the letter dated 14 January 2013 from the Chargé d'affaires a.i. of the Permanent Mission of Switzerland to the United Nations addressed to the Secretary-General

I am writing to you jointly with the Governments of Albania, Andorra, Australia, Austria, Belgium, Botswana, Bulgaria, Cape Verde, Chile, Cook Islands, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Libya, Liechtenstein, Lithuania, Luxembourg, Maldives, Malta, Marshall Islands, Monaco, Montenegro, Netherlands, New Zealand, Norway, Panama, Paraguay, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Samoa, Seychelles, Slovakia, Slovenia, Spain, the former Yugoslav Republic of Macedonia, Tunisia, United Kingdom of Great Britain and Northern Ireland and Uruguay.

Already in November 2011, the United Nations independent international commission of inquiry on the Syrian Arab Republic documented patterns of summary execution, arbitrary arrest, enforced disappearance, torture, including sexual violence, and violations of children's rights, and it expressed its grave concern that crimes against humanity had been committed since the beginning of the unrest in the country in March 2011. Since then, the situation on the ground has only become more desperate, with attacks on the civilian population and the commission of atrocities having almost become the norm.

Relevant decisions of the Human Rights Council, several appeals of the United Nations High Commissioner for Human Rights and the final communiqué of the Action Group for Syria, which met in Geneva on 30 June 2012, have all placed a strong emphasis on accountability and have made it abundantly clear that there should be no impunity for the most serious crimes under international law.

While acknowledging that accountability is primarily a national responsibility and that the role of international criminal justice is complementary, we note with regret that the Syrian Arab Republic has, so far, not reacted to repeated calls from the international community to ensure accountability through a national procedure which needs to be credible, fair and independent in order to bring all perpetrators of alleged serious crimes to justice. Without accountability, however, there will be no sustainable peace in Syria.

We are firmly of the view that the Security Council must ensure accountability for the crimes that seem to have been and continue to be committed in the Syrian Arab Republic and send a clear signal to the Syrian authorities. Given the competence of the Council under the Rome Statute of the International Criminal Court, and barring credible and timely measures to establish accountability within the Syrian Arab Republic itself, the most efficient way to ensure accountability in this serious situation would be a referral of the situation to the Court.

We therefore ask the Security Council to act by referring the situation in the Syrian Arab Republic as of March 2011 to the International Criminal Court without exceptions and irrespective of the alleged perpetrators. At the very least, the Council should send out an unequivocal message urging the Syrian authorities and all other parties to fully respect international human rights and humanitarian law in the ongoing conflict and announcing that it intends to refer the situation to the Court unless a credible, fair and independent accountability process is being established in

a timely manner. We believe that such a warning would have an important dissuasive effect.

In case of a referral, we further call upon the Council to fully commit the necessary resources and its diplomatic support to any subsequent efforts to investigate crimes and to facilitate the execution of potential arrest warrants.

(*Signed*) Thomas **Gürber**
Chargé d'affaires a.i.
Permanent Mission of Switzerland to the United Nations